

1 HANSON BRIDGETT MARCUS VLAHOS & RUDY, LLP
2 JOHN J. VLAHOS - 32673
3 KIMON MANOLIUS - 154971
4 THOMAS B. BROWN - 104254
5 JAHMAL T. DAVIS - 191504
6 JULIA H. VEIT - 209207
7 425 Market Street, 26th Floor
8 San Francisco, CA 94105-2173
9 Telephone: (415) 777-3200
10 Facsimile: (415) 541-9366
11 jveit@hansonbridgett.com

12 Attorneys for Defendant/Cross-Defendant/Cross-Complainant
13 GOLDEN GATE BRIDGE HIGHWAY AND
14 TRANSPORTATION DISTRICT

15 **UNITED STATES DISTRICT COURT**
16 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

17 DAVID R. PECK, TRUSTEE OF THE
18 TAMALPAIS PROPERTY TRUST,

19 Plaintiff,

20 v.

21 PER BESSING, ANTON C. POGANY,
22 JEAN C. POGANY, EDWARD J.
23 FOTSCH, LINDA N. FOTSCH, GOLDEN
24 GATE NATIONAL RECREATION
25 AREA, NATIONAL PARK SERVICE,
26 GOLDEN GATE BRIDGE AND
27 HIGHWAY DISTRICT and DOES ONE
28 through THIRTY,

Defendants.

21 AND RELATED CROSS-ACTIONS.

12 No. C 05 0960 SC

13 **STIPULATION AND [PROPOSED]**
14 **ORDER RE: VOLUNTARY DISMISSAL**
15 **PURSUANT TO F.R.C.P. 41(a)(1)(ii)**

16 Trial Date: June 19, 2006

23 The Parties, through their counsel, hereby STIPULATE AND AGREE to Voluntary
24 Dismissal of Defendant/Cross-Defendant/Cross-Complainant Golden Gate Bridge, Highway and
25 Transportation District (“District”) and the Defendant/Cross-Defendant Golden Gate National
26 Recreation Area, National Park Service (“GGNRA”) pursuant to Federal Rule of Civil Procedure
27 41(a)(1)(ii) as follows:
28

1 **I. RECITALS**

2 WHEREAS Plaintiff David R. Peck, Trustee of the Tamalpais Property Trust (“Plaintiff”),
 3 filed a Complaint against all defendants referenced above on March 7, 2002. Plaintiff, through
 4 designated counsel, hereby stipulates and agrees to dismiss the Complaint against the District.
 5 Plaintiff has no complaint against the GGNRA. In addition, Plaintiff stipulates and agrees to the
 6 dismissal of all other Cross-Complaints pending against the District and the GGNRA with
 7 prejudice;

8 WHEREAS Defendant/Cross-Defendant Per Bessing (“Bessing”), through designated
 9 counsel, has no cross-claim against the District or the GGNRA. Bessing stipulates and agrees to
 10 the dismissal of Plaintiff’s Complaint against the District and to the dismissal of all other Cross-
 11 Complaints pending against the District and the GGNRA with prejudice;

12 WHEREAS, Defendants/Cross-Defendants/Cross-Complainants Edward J. Fotsch, Linda
 13 N. Fotsch (“Fotsch Defendants”) filed a Cross-Complaint against the District and the GGNRA for
 14 equitable indemnity on September 16, 2005. The Fotsch Defendants, through designated counsel,
 15 stipulate and agree to dismiss their respective Cross-Complaints against the District and against
 16 the GGNRA with prejudice. In addition, the Fotsch Defendants stipulate and agree to the
 17 dismissal of Plaintiff’s Complaint against the District and to the dismissal of all other Cross-
 18 Complaints pending against the District and the GGNRA with prejudice;

19 WHEREAS, Defendants/Cross-Defendants/Cross-Complainants Anton C. Pogany and
 20 Jean C. Pogany (“Pogany Defendants”) filed a Cross-Complaint against the District and the
 21 GGNRA for equitable indemnity on December 2, 2005. The Pogany Defendants, through
 22 designated counsel, stipulate and agree to dismiss their respective Cross-Complaints against the
 23 District and against the GGNRA with prejudice. In addition, the Pogany Defendants stipulate and
 24 agree to the dismissal of Plaintiff’s Complaint against the District and to the dismissal of all other
 25 Cross-Complaints pending against the District and the GGNRA with prejudice;

26 WHEREAS the GGNRA filed a Cross-Complaint against the District for contractual
 27 indemnity on December 8, 2005. The GGNRA, through designated counsel, stipulates and agrees
 28 to dismiss its Cross-Complaint against the District. In addition, the GGNRA agrees to the

1 dismissal of Plaintiff's Complaint against the District and to the dismissal of all other Cross-
2 Complaints pending against the District and the GGNRA with prejudice;

3 WHEREAS the District filed Cross-Complaints against all co-defendants, Bessing, the
4 Fotsch Defendants, the Pogany Defendants and the GGNRA, for equitable indemnity on October
5 4, 2005. The District, through designated counsel, stipulates and agrees to dismiss all of the
6 referenced cross-complaints with prejudice. In addition, the District stipulates and agrees to the
7 dismissal of all Cross-Complaints pending against the GGNRA with prejudice.

8 **II. STIPULATION**

9 IT IS HEREBY STIPULATED by and between the parties to these actions, by
10 Defendant/Cross-Defendant Per Bessing, Defendants/Cross-Defendants/Cross-Complainants
11 Anton C. Pogany, Jean C. Pogany, Defendants/Cross-Defendants/Cross-Complainants Edward J.
12 Fotsch, Linda N. Fotsch, Defendant/Cross-Defendant Golden Gate National Recreation Area,
13 National Park Service, Defendant/Cross-Defendant/Cross-Complainant Golden Gate Bridge,
14 Highway and Transportation District's designated counsel, and by Plaintiff David R. Peck,
15 Trustee of the Tamalpais Property Trust's through their designated counsel, that the above-
16 captioned action be and hereby is dismissed as to the District and GGNRA pursuant to Federal
17 Rule of Civil Procedure 41(a)(1)(ii).

18 The parties hereby stipulate and agree to the following:

19 1. Plaintiff hereby stipulates and agrees to dismiss the Complaint as to the District.
20 In addition, Plaintiff stipulates and agrees to the dismissal of all other Cross-Complaints pending
21 against the District and the GGNRA with prejudice;

22 2. Bessing hereby stipulates and agrees (1) to the dismissal of Plaintiff's Complaint
23 against the District and (2) to the dismissal of all other Cross-Complaints pending against the
24 District and the GGNRA with prejudice;

25 3. The Pogany Defendants hereby stipulate and agree to dismiss their respective
26 Cross-Complaints against the District and against the GGNRA with prejudice. In addition, the
27 Pogany Defendants stipulate and agree to (1) to the dismissal of Plaintiff's Complaint against the
28 District and (2) to the dismissal of all other Cross-Complaints pending against the District and the

1 GGNRA with prejudice;

2 4. The Fotsch Defendants hereby stipulate and agree to dismiss their respective
3 Cross-Complaints against the District and against the GGNRA with prejudice. In addition, the
4 Fotsch Defendants stipulate and agree (1) to the dismissal of Plaintiff's Complaint against the
5 District and (2) to the dismissal of all other Cross-Complaints pending against the District and the
6 GGNRA with prejudice;

7 5. The GGNRA hereby stipulates and agrees to dismiss its Cross-Complaint for
8 contractual indemnity against the District. In addition, the GGNRA agrees (1) to the dismissal of
9 Plaintiff's Complaint against the District and (2) to the dismissal of all other Cross-Complaints
10 pending against the District and the GGNRA with prejudice;

11 6. The District hereby stipulates and agrees to dismiss its Cross-Complaints against
12 all co-defendants, Bessing, the Pogany Defendants, the Fotsch Defendants and GGNRA, for
13 equitable indemnity with prejudice. In addition, the District stipulates and agrees to the dismissal
14 of all Cross-Complaints pending against the GGNRA with prejudice.

15 7. The parties, by signing below through counsel, and submitting this Stipulation and
16 Proposed Order Re: Voluntary Dismissal to the Court hereby acknowledge and agree that as the
17 result of this Stipulation, and upon execution of this Order, the District and the GGNRA are no
18 longer parties in to the above-captioned lawsuit in any way.

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24 DATED: 4-28-06, 2006

25 By: 

John B. Keating

Attorney for Plaintiff

DAVID PECK, TRUSTEE OF THE TAMALPAIS
PROPERTY TRUST

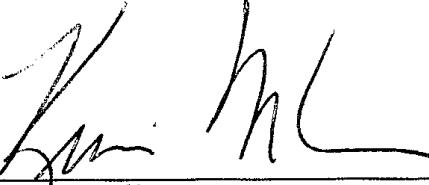
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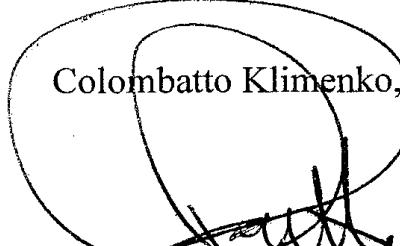
1 DATED: 4/28/06, 2006

Hanson Bridgett Marcus Vlahos & Rudy, LLP

2 By: 

3 Kimon Manolius
4 Attorneys for Defendant/Cross-Defendant/
5 Cross-Complainant
6 GOLDEN GATE BRIDGE HIGHWAY AND
7 TRANSPORTATION DISTRICT

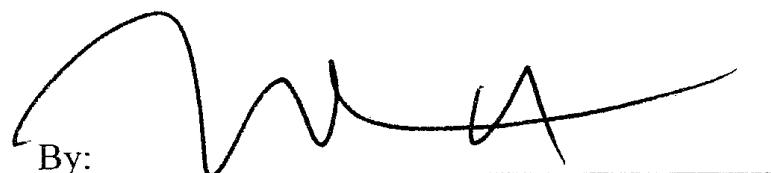
8 DATED: 4/28/06, 2006

9 
10 By: 

11 P. Richard Colombatto
12 Attorneys for Defendant/Cross-Defendant
13 PER BESSING

14 DATED: 4/28/06, 2006

15 Wilson, Elser, Moskowitz, Edelman & Dicker LLP

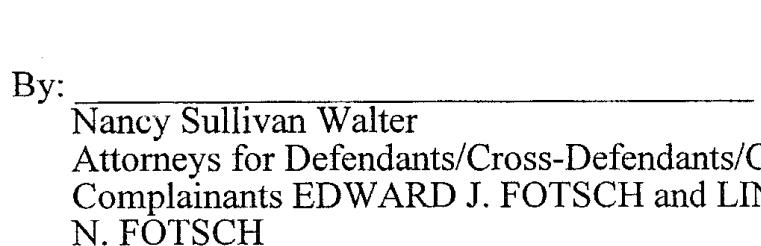
16 By: 

17 William Jemmott
18 Michael C. Douglass
19 Attorneys for Defendants/Cross-Defendants/Cross-
20 Complainants ANTON C. POGANY and JEAN C.
21 POGANY

22 DATED: _____, 2006

23 Babbitts & Walter

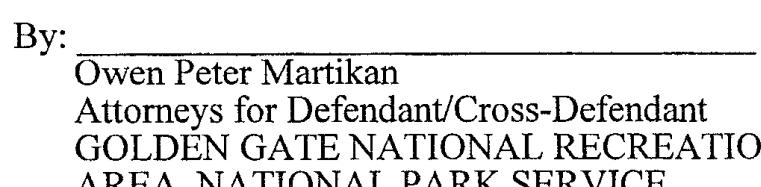
24 DATED: _____, 2006

25 By: 
26 Nancy Sullivan Walter
27 Attorneys for Defendants/Cross-Defendants/Cross-
28 Complainants EDWARD J. FOTSCH and LINDA
N. FOTSCH

29 DATED: _____, 2006

30 United States Attorney, Northern District of California

31 DATED: _____, 2006

32 By: 
33 Owen Peter Martikan
34 Attorneys for Defendant/Cross-Defendant
35 GOLDEN GATE NATIONAL RECREATION
36 AREA, NATIONAL PARK SERVICE

1 DATED: _____, 2006

Hanson Bridgett Marcus Vlahos & Rudy, LLP

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By: _____

Kimon Manolius
Attorneys for Defendant/Cross-Defendant/
Cross-Complainant
GOLDEN GATE BRIDGE HIGHWAY AND
TRANSPORTATION DISTRICT

DATED: _____, 2006

Colombatto Klimenko, LLP

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By: _____

P. Richard Colombatto
Attorneys for Defendant/Cross-Defendant
PER BESSING

DATED: _____, 2006

Wilson, Elser, Moskowitz, Edelman & Dicker LLP

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By: _____

William Jemmott
Michael C. Douglass
Attorneys for Defendants/Cross-Defendants/Cross-
Complainants ANTON C. POGANY and JEAN C.
POGANY

Babbitts & Walter

DATED: 4/28, 2006

By: Nancy Sullivan Walter
Nancy Sullivan Walter
Attorneys for Defendants/Cross-Defendants/Cross-
Complainants EDWARD J. FOTSCH and LINDA
N. FOTSCH

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DATED: _____, 2006

United States Attorney, Northern District of California

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By: _____

Owen Peter Martikan
Attorneys for Defendant/Cross-Defendant
GOLDEN GATE NATIONAL RECREATION
AREA, NATIONAL PARK SERVICE

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1 DATED: _____, 2006

2 Hanson Bridgett Marcus Vlahos & Rudy, LLP

3

4 By: _____

5 Kimon Manolius
6 Attorneys for Defendant/Cross-Defendant/
7 Cross-Complainant
8 GOLDEN GATE BRIDGE HIGHWAY AND
9 TRANSPORTATION DISTRICT

10 DATED: _____, 2006

11 Colombatto Klimenko, LLP

12

13 By: _____

14 P. Richard Colombatto
15 Attorneys for Defendant/Cross-Defendant
16 PER BESSING

17 DATED: _____, 2006

18 Wilson, Elser, Moskowitz, Edelman & Dicker LLP

19

20 By: _____

21 William Jemmott
22 Michael C. Douglass
23 Attorneys for Defendants/Cross-Defendants/Cross-
24 Complainants ANTON C. POGANY and JEAN C.
25 POGANY

26

27 DATED: _____, 2006 Babbitts & Walter

28

29 By: _____

30 Nancy Sullivan Walter
31 Attorneys for Defendants/Cross-Defendants/Cross-
32 Complainants EDWARD J. FOTSCH and LINDA
33 N. FOTSCH

34 DATED: 5/27, 2006

35 United States Attorney, Northern District of California

36

37 By: _____

38 Owen Peter Martikan
39 Attorneys for Defendant/Cross-Defendant
40 GOLDEN GATE NATIONAL RECREATION
41 AREA, NATIONAL PARK SERVICE

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44 TOTAL P.02



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2 **III. ORDER**
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5 The Court hereby orders dismissal of the action pursuant to the stipulation of the parties as
6 set forth above.
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9 **IT IS SO ORDERED.**
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DATED: _____, 2006

— HONORABLE SAMUEL CONTI
United States District Court Judge